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**UNITED STATES DISTRICT COURT
 DISTRICT OF NEVADA**

Donald Sullivan, Plaintiff, v. Paramount Equity Mortgage, LLC <i>dba</i> Loanpal, Defendant.	Case No.: Complaint for damages and injunctive relief pursuant to the Telephone Consumer Protection Act, 47 U.S.C. § 227, <i>et seq.</i> Jury Trial Demanded
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INTRODUCTION

- Donald Sullivan (“Plaintiff”) brings this Complaint for damages, injunctive relief, and any other available legal or equitable remedies, resulting from the illegal actions of Paramount Equity Mortgage, LLC *dba* Loanpal (“Defendant”), in negligently and/or intentionally contacting Plaintiff on Plaintiff’s cellular telephone, in violation of the Telephone Consumer Protection Act, 47 U.S.C. § 227, *et seq.* (the “TCPA”), thereby invading Plaintiff’s privacy. Plaintiff alleges as follows upon personal knowledge as to himself and his own acts and experiences, and, as to all other matters, upon information and belief, including investigation conducted by his attorneys.

- 1 2. The TCPA was designed to prevent calls like the ones described within this
2 complaint, and to protect the privacy of citizens like Plaintiff. “Voluminous
3 consumer complaints about abuses of telephone technology – for example,
4 computerized calls dispatched to private homes – prompted Congress to pass
5 the TCPA.” *Mims v. Arrow Fin. Servs., LLC*, 132 S. Ct. 740, 744 (2012).
- 6 3. In enacting the TCPA, Congress intended to give consumers a choice as to how
7 creditors and telemarketers may call them, and made specific findings that
8 “[t]echnologies that might allow consumers to avoid receiving such calls are not
9 universally available, are costly, are unlikely to be enforced, or place an
10 inordinate burden on the consumer. TCPA, Pub.L. No. 102–243, § 11. Toward
11 this end, Congress found that
12 [b]anning such automated or prerecorded telephone calls to the
13 home, except when the receiving party consents to receiving the
14 call or when such calls are necessary in an emergency situation
15 affecting the health and safety of the consumer, is the only
16 effective means of protecting telephone consumers from this
17 nuisance and privacy invasion.
18 *Id.* at § 12; *see also Martin v. Leading Edge Recovery Solutions, LLC*, 2012 WL
19 3292838, at* 4 (N.D. Ill. Aug. 10, 2012) (citing Congressional findings on
20 TCPA’s purpose).
- 21 4. Congress also specifically found that “the evidence presented to the Congress
22 indicates that automated or prerecorded calls are a nuisance and an invasion of
23 privacy, regardless of the type of call. . . .” *Id.* at §§ 12-13; *see also, Mims*, 132
24 S. Ct. at 744

25 JURISDICTION AND VENUE

- 26 5. This Court has federal question jurisdiction because this case arises out of
27 violation of federal law. 47 U.S.C. §227(b); *Mims v. Arrow Fin. Servs. LLC*,
28 132 S. Ct. 740 (2012).

6. Venue is proper in the United States District Court for the District of Nevada pursuant to 28 U.S.C. § 1391 for the following reasons: (i) Plaintiff resides within this judicial district; (ii) the harm complained of herein occurred within this judicial district; and, (iii) many of the acts and transactions giving rise to this action occurred in this district because Defendant is listed with the Nevada Secretary of State as a Foreign Limited-Liability Company doing business in Nevada and

(a) conducts business in this district and has intentionally availed itself of the laws and markets within this district;

(b) does substantial business within this district;

(c) is subject to personal jurisdiction in this district because it has availed itself of the laws of Nevada; and

(d) caused harm to Plaintiff within this district.

PARTIES

7. Plaintiff is, and at all times mentioned herein was, a citizen and resident of the State of Nevada. Plaintiff is, and at all times mentioned herein was, a “person” as defined by 47 U.S.C. § 153(39).

8. Plaintiff is informed and believes, and thereon allege, that Defendant is, and at all times mentioned herein was, a Limited-Liability Company doing business in Nevada and is a “person,” as defined by 47 U.S.C. § 153(39).

9. Upon information and belief, and according to Defendant’s website, <http://https://www.loanpal.com/>, Defendant finances solar products.

10. Plaintiff is informed and believes, and thereon alleges, that Defendant is a company and owner (or frequent user) of one or more of the telephone numbers used by Defendant to make telephone calls to Plaintiff in violation of the TCPA.

FACTUAL ALLEGATIONS

11. In late 2018, Plaintiff sought to buy solar panels for his home.

1 12. Plaintiff was subject to consumer fraud by third parties that resulted in a loan
2 from Defendant for about \$50,000 in principal, even though the solar products,
3 services, and benefits Plaintiff received was only worth, and quoted for,
4 approximately \$35,000.

5 13. Whether Plaintiff owes Defendant any money is not relevant to this action.

6 14. Plaintiff began the process of disputing the solar sale with the third parties to
7 determine where the missing \$15,000 went.

8 15. Starting in early 2019, Defendant initiated numerous telephone calls to
9 Plaintiff's cellular telephone number.

10 16. Because Plaintiff was disputing the debt, he told Defendant to stop calling him
11 on his cellphone.

12 17. Nevertheless, Defendant continued to repeatedly call Plaintiff on his cellphone.

13 18. Upon information and belief, Defendant placed these calls using an "automatic
14 telephone dialing system," ("ATDS") as defined by 47 U.S.C. § 227 (a)(1) as
15 prohibited by 47 U.S.C. § 227 (b)(1)(A) or a prerecorded or artificial voice.

16 19. These telephone calls constituted calls that were not for emergency purposes as
17 defined by 47 U.S.C. § 227 (b)(1)(A)(i).

18 20. Upon information and belief, the ATDS used by Defendants has the capacity to
19 store or produce telephone numbers to be called, using a random or sequential
20 number generator.

21 21. Upon information and belief, the ATDS used by Defendant also has the capacity
22 to, and does, dial telephone numbers stored as a list or in a database without
23 human intervention.

24 22. Defendant's calls was placed to a telephone number assigned to a cellular
25 telephone service for which Plaintiff incurred a charge for incoming calls
26 pursuant to 47 U.S.C. § 227(b)(1).

27 23. The telephone calls were unwanted by Plaintiff.
28

1 24. Defendant did not have prior express written consent to place the telephone
2 calls to Plaintiff.

3 25. Through Defendant's aforementioned conduct, Plaintiff suffered an invasion of
4 a legally protected interest in privacy, which is specifically addressed and
5 protected by the TCPA.

6 26. Plaintiff was personally affected by Defendant's aforementioned conduct
7 because Plaintiff was frustrated and distressed that Defendant interrupted
8 Plaintiff with an unwanted calls using an ATDS and prerecorded voices.

9 27. Defendant's calls forced Plaintiff to live without the utility of his cellular phone
10 by occupying his phone with one or more unwanted calls, causing a nuisance
11 and lost time.

12 28. Defendant's calls to Plaintiff's cellular telephone number were unsolicited by
13 Plaintiff and without Plaintiff's permission or consent.

14 29. Plaintiff is informed and believes and here upon alleges, that the calls were
15 made by Defendant and/or Defendant's agent(s), with Defendant's permission,
16 knowledge, control and for Defendant's benefit.

17 30. Through the aforementioned conduct, Defendant has violated 47 U.S.C. §
18 227(b)(1)(A)(iii).

19 31. Further, Defendant's violations also caused Plaintiff to suffer a real and concrete
20 harm because when Defendant called Plaintiff, Plaintiff's time was wasted on
21 phone calls with Defendant when Defendant had no right to contact Plaintiff.
22 Defendant also consumed and wasted Plaintiff's cellphone battery life. Plaintiff
23 also suffered from frustration and annoyance from Defendant's calls which the
24 TCPA was enacted to prevent. *See, e.g., Mey v. Got Warranty, Inc.*, No. 5:15-
25 CV-101, 2016 U.S. Dist. LEXIS 84972, at *8 (N.D.W. Va. June 30, 2016)
26 ("[S]uch calls also cause intangible injuries, regardless of whether the consumer
27 has a prepaid cell phone or a plan with a limited number of minutes. The main
28 types of intangible harm that unlawful calls cause are (1) invasion of privacy,

(2) intrusion upon and occupation of the capacity of the consumer's cell phone, and (3) wasting the consumer's time or causing the risk of personal injury due to interruption and distraction."").

FIRST CAUSE OF ACTION

Negligent Violations of the TCPA

47 U.S.C. § 227, *et seq.*

32. Plaintiff incorporates by reference all of the above paragraphs of this Complaint as though fully stated herein.

33. The foregoing acts and omissions of Defendant constitute numerous and multiple negligent violations of the TCPA, including but not limited to each and every one of the above-cited provisions of 47 U.S.C. § 227, *et seq.*

34. As a result of Defendant's negligent violations of 47 U.S.C. § 227, *et seq.*, Plaintiff is entitled to an award of \$500.00 in statutory damages, for each and every violation, pursuant to 47 U.S.C. §227(b)(3)(B).

35. Plaintiff is also entitled to and seek injunctive relief prohibiting such conduct in the future.

SECOND CAUSE OF ACTION

Knowing and/or Willful Violations of the TCPA

47 U.S.C. § 227, *et seq.*

36. Plaintiff incorporates by reference all of the above paragraphs of this Complaint as though fully stated herein.

37. The foregoing acts and omissions of Defendant constitute numerous and multiple knowing and/or willful violations of the TCPA, including but not limited to each and every one of the above-cited provisions of 47 U.S.C. § 227, *et seq.*

38. As a result of Defendant's knowing and/or willful violations of 47 U.S.C. § 227 *et seq.*, Plaintiff is entitled to an award of \$1,500.00 in statutory damages, for each and every violation, pursuant to 47 U.S.C. § 227(b)(3)(C).

39. Plaintiff is also entitled to and seek injunctive relief prohibiting such conduct in the future.

PRAYER FOR RELIEF

Wherefore, Plaintiff respectfully requests the Court grant Plaintiff the following relief against Defendant:

- Provide injunctive relief prohibiting Defendant's unlawful conduct in the future, pursuant to 47 U.S.C. § 227(b)(3)(A);
- Award statutory damages of \$500.00 for each of Defendant's negligent violations of 47 U.S.C. § 227(b)(1), pursuant to 47 U.S.C. §227(b)(3)(B);
- Award statutory damages of \$1,500.00 for each of Defendant's knowing and/or willful violations of 47 U.S.C. § 227(b)(1), pursuant to 47 U.S.C. § 227(b)(3)(C); and
- Any other relief the Court may deem just and proper.

TRIAL BY JURY

40. Pursuant to the seventh amendment to the Constitution of the United States of America, Plaintiff is entitled to, and demands, a trial by jury.

Respectfully submitted this 4th day of April 2019.

KAZEROUNI LAW GROUP, APC

By: /s/ Michael Kind

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